

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION

KANE MARCEAUX, GREG CORMIER,
SCOTT POIENCOT, NORBERT MYERS,
GABE THOMPSON, NOVEY STELLY,
ULETOM P. HEWITT, REGINA BRISCOE
AND ALEETA M. HARDING

CIVIL ACTION NO: 6:12-cv-01532

VERSUS

JUDGE RICHARD T. HAIK, SR.

LAFAYETTE CITY-PARISH CONSOLIDATED
GOVERNMENT; LAFAYETTE POLICE
DEPARTMENT THROUGH THE LAFAYETTE
CITY-PARISH CONSOLIDATED
GOVERNMENT; LESTER JOSEPH "JOEY"
DUREL, JR. IN HIS CAPACITY AS PRESIDENT
OF THE LAFAYETTE CITY-PARISH
CONSOLIDATED GOVERNMENT; DEE
EDWARD STANLEY, INDIVIDUALLY AND IN
HIS CAPACITY AS CHIEF ADMINISTRATIVE
OFFICER OF THE LAFAYETTE CITY-PARISH
CONSOLIDATED GOVERNMENT; JAMES P.
"JIM" CRAFT, INDIVIDUALLY AND IN HIS
CAPACITY AS CHIEF OF THE LAFAYETTE
POLICE DEPARTMENT; AND GEORGE
"JACKIE" ALFRED, INDIVIDUALLY AND IN
HIS CAPACITY AS PATROL DIVISION
COMMANDER OF THE LAFAYETTE
POLICE DEPARTMENT

MAGISTRATE JUDGE PATRICK J. HANNA

SUPPLEMENTAL MOTION TO DISMISS PURSUANT TO F.R.C.P. RULE 12(b)(6)

NOW INTO COURT, through undersigned counsel, come Defendants, LAFAYETTE
CITY-PARISH CONSOLIDATED GOVERNMENT (LCG); LAFAYETTE POLICE
DEPARTMENT THROUGH THE LAFAYETTE CITY-PARISH CONSOLIDATED
GOVERNMENT (LPD); LESTER JOSEPH "JOEY" DUREL, JR. IN HIS CAPACITY AS
PRESIDENT OF THE LAFAYETTE CITY-PARISH CONSOLIDATED GOVERNMENT; DEE

EDWARD STANLEY, INDIVIDUALLY AND IN HIS CAPACITY AS CHIEF ADMINISTRATIVE OFFICER OF THE LAFAYETTE CITY-PARISH CONSOLIDATED GOVERNMENT; JAMES P. "JIM" CRAFT, INDIVIDUALLY AND IN HIS CAPACITY AS CHIEF OF THE LAFAYETTE POLICE DEPARTMENT; AND GEORGE "JACKIE" ALFRED, INDIVIDUALLY AND IN HIS CAPACITY AS PATROL DIVISION COMMANDER OF THE LAFAYETTE POLICE DEPARTMENT, who respectfully move for an Order dismissing Plaintiffs' claims, with prejudice and without opportunity to amend, pursuant to F.R.C.P. Rule 12(b)(6), upon representing to the Court as follows, and as more fully supported by the Memorandum filed herewith:

1.

Plaintiffs filed their First Amended and Supplemental Complaint (Doc. 51-3) in accordance with this Court's September 24, 2012 Order (Doc. 54). Because the Supplemental Complaint does not specify which particular allegations from the original Complaint have been re-averred, Defendants re-urge their original Motion to Dismiss Pursuant to F.R.C.P. Rule 12(b)(6) (Doc. 5, Memorandum as corrected by Doc. 8) in its entirety.

2.

Defendants hereby address Plaintiffs' new allegations, including allegations by new Plaintiffs and allegations against new Defendants.

3.

Plaintiffs' Supplemental Complaint fails to correct deficiencies in the original Complaint and represents a failure by both original and new Plaintiffs to state any claim for relief. Specifically, neither Complaint alleges facts sufficient to state any claim for relief under 42 U.S.C. §1983, the First, Fourth, Fifth, or Fourteenth Amendments. Neither do the Complaints state a claim

for injunctive relief. Rather, the factual allegations represent various employment-related grievances which in most cases are facially prescribed and should have been (or are currently pending before) the Lafayette Municipal Fire & Police Civil Service Board.

4.

Plaintiffs have been given the opportunity to amend their Complaint in order to state a claim for relief, but they have failed. Their claims should be dismissed, with prejudice, and without further opportunity to amend.

5.

It should be noted as of the day of this writing the newly named Defendants have not been served nor has a waiver of service been requested. If and when they are ever served, request for dismissal as addressed in this motion will be requested.

WHEREFORE, Defendants pray that their Motion be granted, that both Complaints and the entirety of Plaintiffs' claims be dismissed, with prejudice, at their costs, including attorneys' fees incurred as a result of these proceedings, and without further opportunity to amend.

RESPECTFULLY SUBMITTED:

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CERTIFICATE

This is to certify that on October 2, 2012, I presented the foregoing to the Clerk of the Court for filing and uploading to the CM/ECF system which will send notification of such filing to the following:

springlaw@gmail.com

jca@jcalaw.us

hanna_orders@lawd.uscourts.gov

and I hereby certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participant or pro se defendant:

Mr. R. Royal Alexander
Attorney at Law
333 Texas Street, Suite 725
Shreveport, LA 71101

s/Michael P. Corry
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